

Message Text

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TO AMEMBASSY BUCHAREST

C O N F I D E N T I A L STATE 122324

E.O. 11652: GDS

TAGS: CASC, CPAS, RO (BRATU, LIVIU)

SUBJECT: AMCIT: LIVIU BRATU

REF: A) STATE 105272; B) BUCHAREST 2003; C)

BUCHAREST 2052

1. DEPARTMENT APPRECIATES EMBASSY ASSISTANCE TO DATE TO NATURALIZED AMCIT LIVIU BRATU, WHOSE US PASSPORT HAS BEEN LIFTED BY ROMANIAN AUTHORITIES ON GROUNDS THAT HE REMAINS A ROMANIAN CITIZEN UNDER PROVISIONS OF ART. 3 OF ROMANIAN CITIZENSHIP LAW OF 1971 (REFTELS). HOWEVER, DEPARTMENT BELIEVES GOR ACTION ON HIS CASE IS CLEARLY IN CONTRADICTION WITH ORAL UNDERSTANDINGS OFT-REITERATED IN RECENT YEARS THAT A US CITIZEN, HOWEVER HE ACQUIRED US CITIZENSHIP, WHO IS ON A TEMPORARY VISIT TO ROMANIA CARRYING A US PASSPORT WITH VALID ROMANIAN VISA, WOULD BE TREATED AS A US NATIONAL AND THEREFORE WOULD NOT RPT NOT BE SUBJECT TO HARASSMENT OR DENIED PERMISSION TO LEAVE ROMANIA. BRATU IS NOT BEING ACCUSED OF ANY DELICTS UNDER ROMANIAN LAW AND WE THUS BELIEVE MATTER SHOULD BE RAISED WITH GOR IN THE CONTEXT OF OUR ORAL BUT NONETHELESS EXPLICIT UNDERSTANDING. THE UNDERSTANDING WAS REAFFIRMED IN CONVERSATIONS BETWEEN AMBASSADOR MEEKER AND BADESCU DURING FINAL NEGOTIATION OF CONSULAR CONVENTION IN JULY 1972 AND DEPARTMENT ASSUMES EMBASSY HAS A RECORD THEREOF.

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2. DURING DISCUSSION WITH ROMANIANS, EMBASSY MIGHT FIND IT USEFUL TO RECALL ROMANIAN JUSTIFICATION FOR REFUSING TO INCLUDE THIS QUESTION IN THE CONSULAR CONVENTION NEGOTIATIONS, TO WIT, THAT BECAUSE NO PROBLEM HAD EVER

ARISEN REGARDING DUAL/MULTIPLE NATIONALS THERE EXISTED
NO NEED TO DISCUSS IT. IT SEEMS WE BOTH NOW HAVE A
PROBLEM.

3. WE UNDERSTAND THE DISTINCTION BETWEEN DUAL NATIONALS
AND PERSONS HOLDING TWO NATIONALITIES TO WHICH BUCHAREST
2003 REFERS, BUT WE MAINTAIN THAT OUR UNDERSTANDING WITH
ROMANIANS APPLIES TO BOTH CATEGORIES AND THUS WE MUST HOLD
THEM TO IT IN THE BRATU CASE. SHOULD GOR ATTEMPT TO MAKE
THIS DISTINCTION, PLEASE CHALLENGE IT AND INFORM DEPART-
MENT. (FOR THE RECORD, WE ASSUME EMBASSY CITATION OF
9 FAM 225.11 IS TYPO FOR 8 FAM 225.11. EMBASSY CITATION
DEALS WITH DIVESTITURE OF US NATIONALITY WHICH IS WE HOPE
IRRELEVANT IN THE BRATU CASE.)

4. THE GOVERNING DEFINITION OF A US NATIONAL IS OF COURSE
TO BE FOUND IN SECTION 101(A)(22) OF THE INA. BY NO
INTERPRETATION OF THE RELEVANT PORTIONS OF THE FAM OR THE
STATUTE CAN "SECOND CLASS" CITIZENSHIP BE INFERRED FOR
ANYONE, I.E., BRATU IS AN AMERICAN CITIZEN AND AS SUCH IS
ENTITLED TO THE FULL PROTECTION OF THE US IN ALL RESPECTS.
OUR UNDERSTANDING WITH THE ROMANIANS COMMITS THEM TO TREAT
BRATU AS A US CITIZEN SO LONG AS HE TRAVELS WITH A US
PASSPORT AND GOR VISA. ORIGIN OF HIS US CITIZENSHIP IS
IRRELEVANT.

5. THERE IS ALSO A ROMANIAN CAVEAT IN THE RECORD AVAILABLE
TO US TO EFFECT THAT IN THEIR VIEW THE UNDERSTANDING
APPLIES ONLY AS LONG AS THE PROPERLY DOCUMENTED TRAVELER
REMAINS FREE OF ENTANGLEMENT UNDER ROMANIAN LAW. AS FAR
AS WE KNOW THIS REMAINS TRUE FOR BRATU. EVEN IF HE WERE
IN TROUBLE UNDER THE LAW, HE WOULD BE ENTITLED IN OUR
VIEW TO PROTECTION UNDER ART. 22 OF THE CONSULAR CONVENTION
JUST AS ANY OTHER US CITIZEN, ALTHOUGH ROMANIANS MIGHT BE
EXPECTED TO DISPUTE THIS WITH US. IT MIGHT IN THIS CON-
TEXT BE USEFUL TO ASK BRATU WHEN AND HOW HE LEFT ROMANIA
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(LEGALLY OR ILLEGALLY). WE ALSO WONDER WHAT WAS THE PUR-
POSE OF HIS TRAVEL TO ROMANIA. KISSINGER

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